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A Canadian's view of the Battle of Plattsburgh. [n.p., 1915]

A Canadian's View of the Battle of Plattsburgh.

A Canadian's View of the Battle of New Orleans.

The Century of Peace and its Significance.

Addresses by

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Justice of the Supreme Court of Ontario.

A Canadian's View of the Battle of Plattsburgh.

Address at the Banquet at Plattsburgh, N.Y., given by the State of New York in celebration of the Centenary of the Battle of Plattsburgh.

(Note—Such parts as are merely introductory or of only local or temporary interest are omitted.)

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It is of splendid augury that a great State thinks it fitting to ask to help in the celebration of the Centenary of a battle, citizens of a neighbouring state whose flag suffered there a reverse; and it is of even grander significance that these citizens accept that invitation with pleasure and, indeed, with eagerness. You of the State of New York see nothing extraordinary, much less improper, in inviting us to rejoice with you in the gladness of your nation; and we, Canadians to the finger-tips, Britons to the last drop of our blood, cordially unite with you in the glory of your inheritance.

For the true significance of this occasion is not the victory and the defeat, but the adumbration of a hundred years of peace. We Canadians naturally and necessarily look at the war of 1812 from a different point of view from that of the American. Patriotism is cruel, and cannot be expected to be other than unjust. We probably would not agree as to the real causes of the war, its necessity, the propriety of the means adopted on either side; but we can all agree that those engaged in it proved themselves not unworthy of their high descent, their fighting stock; that on neither side did the actual combatants wish to leave off, but both longed

to avenge defeat and to enhance victory, and that it was the sound common sense of the nations at large and their sense of fundamental unity which compelled a cessation of the fratricidal slaughter, useless as it was terrible.

The descendant of Cavalier and Roundhead can join in praise of their ancestors in the Revolution of the seventeenth century and can forget the disputes which divided them. These ancestors were of the same people, though divided by their different views as to Royal Government. So, too, the time is rapidly approaching when the descendants of the Roundhead and Cavalier of the Revolution of the eighteenth century—the Continental and the Loyalist—may join in recognizing the merits of their ancestors; for these, too, were of the same people, though they also were divided by their views of government.

I do not forget, either, that since then, there have been many thousands of the citizens of the one State who have made their home in the other. Their descendants claim to be true-born Americans or Canadians; rather reminding one of the Frenchman who on the day of his naturalization in England said he felt much elated, for "to-day I conquered at Waterloo, while yesterday I was defeated." There are to-day many tens of thousands of Americans who conquered at Plattsburgh, whose ancestors were there defeated.

Were that battle but the victory of an American over a British force, much as I love the American nation, my altruism would not rise, could not be expected to rise, to the height of heartily rejoicing with them on this anniversary. Your flag I esteem and honour, mine own I love and revere—your glory I rejoice in, for we be brethren; the glory of Britain is my very own, a heritage to which I was born, no jot or tittle of which will I ever willingly give up.

Nothing which has been said of the bravery of the forces on either side, of the skill and determination of Macdonough, the dogged valour of the ill-fated Downie, but I cordially endorse. I can even look with equanimity upon the retreat of Prevost and set it over against

the surrender of Hull the year before—in either case the weaker man succumbed. I do not intend to say anything of the battle itself, or of those who took part in it. It is not the battle, but its effects which will be the subject of my remarks; and these effects have been for the benefit not only of the United States but of Canada and of Britain—yea, of the whole world itself, civilized and uncivilized.

I do not pretend to give the Canadian view of the battle. I fancy the views taken by Canadians of this battle are as varied as those taken by Americans or Englishmen; and I do no more than give you the view of one Canadian, proud of the name.

It is a remarkable circumstance that from the very beginning of the war the American Government was sincerely desirous of peace. A great wrong was done to President Madison by a whole political party in charging him with a desire for war in order to better his political fortunes; but this charge still makes itself heard from time to time. It is most true that from the South and West came an insistent cry for war, which it was found impossible to resist; and from the same quarters the cry continued, during the whole period of the war, for its continuance.

New England and New York opposed the war as long as they could, but their influence was not sufficient. While it was wholly unjust to label the war as "Madison's War," as was done at the time and has since continued in some quarters, it would not be very far from the truth to call it "Henry Clay's War." The opposition of Clay and his friends, the Administration had to face and to meet; and notwithstanding that opposition, Madison from the very beginning did all humanly possible to bring about a cessation of hostilities —except one thing. The abrogation of the Orders in Council before knowledge by Britain of the Declaration of War left only impressment as a substantial grievance; for we may safely disregard the charges of incitement of the Indians against Americans and the more or less indefinite complaints in respect of violation of the rights

of neutrals. These were a makeweight, they helped to turn a period and to point an invective; but they were largely illusory and without solid foundation.

The War Hawk element insisted that impressment was after all the real issue to be determined, the real cause of the war; and no Administration could be strong enough to fail to insist upon the demand which the United States made for an express renunciation by Britain of the asserted right and the practice of boarding American merchant vessels on the high seas and taking therefrom such sailors as her capturer should decide were British subjects. This claim was undoubtedly exercised sometimes in much the same way as a slaveholder would exercise a right to go amongst the blacks and select for his service such negroes as he should consider were not free; and the lot of the impressed man was worse than that of the slave in that he was exposed to the dangers of battle, if better in that it was not necessarily for life and was not transmitted to his children. Terrible as were the outrages perpetrated upon American citizens, Madison would never have declared war for that cause alone. Nor was he under any delusion as to the nature of the war. His biographer calls it a "wretched war . . . foolishly called the second war of independence." He was not the man for a war president, and he knew it—and he certainly did not wish war for its own sake. But without abandoning what he could not abandon, he did all possible to bring about the return of peace.

When immediately after the declaration of war, Admiral Warren came across the Atlantic asking for peace, he was most courteously received, and every disposition shown favourable to his mission. The one thing, however, that the Administration could not give up was an undertaking by Britain to abandon impressment. That granted, an armistice would have followed immediately; and it is almost certain that satisfactory terms of peace would have been arranged. But that was the one thing Warren could not accede to and Britain could not accede to. Rightly or wrongly, the

British people almost without exception looked upon the right of impressment as absolutely necessary to the security of their country. No government would stand for a day which even suggested giving up that right, a right given by common law and, in effect, asserted by Magna Charta.

Jonathan Russell shortly afterwards was instructed to negotiate for an armistice. He made the proposition to Castlereagh; but Russell also made the same stipulation that Monroe had made to Warren, and was contemptuously rebuffed. Russell found that the view taken by most of his countrymen then, as it is now, of the importance of the war was not shared then—as it is not now—by the English-speaking across the sea. Americans, because it was their first war, and, still more, Canadians, because it was waged in large part on their soil, are wont to magnify the war, making it one of the great struggles of history; the American and Canadian school-books were (perhaps still are) full of the story of that conflict. Englishmen then and now looked and look upon it as an insignificant and regrettable episode in the midst of a real fight, the life and death struggle with Napoleon for freedom and indeed for national existence.

An offer by the Czar of Russia to mediate was eagerly grasped by Madison, though rejected with irritation, even scant courtesy, by the British Government; the substitute offer of Castlereagh to negotiate direct was even more promptly accepted by the United States. The President wisely appointed Henry Clay one of the Commissioners; he would certainly fight for American rights to the last and at the same time he would be across the Atlantic and unable effectually to balk or even to embarrass the government in any steps they might take towards peace.

It is impossible not to recognize that at no time would Britain have agreed to abandon the practice of impressment; Bayard and Gallatin saw this and made it perfectly clear to the Washington administration; their instructions that Britain must agree to this, they knew to be hopeless of accomplishment and they said so in

plain terms. In Monroe's letter of June 23rd, 1814, to the envoys at Ghent it was still considered imperative that impressment, an "essential cause of the war . . . should be removed." But the letters of Bayard and Gallatin, as well as other information from Europe, induced the President, with the approval of his Cabinet, Monroe, Campbell, Armstrong, Jones (Rush was absent), to decide, four days thereafter, to authorize a treaty of peace silent on the subject; and the Commissioners were so advised immediately.

An American writer says of this step, "Madison's Administration humbled itself to an abandonment of the claim for exemption from impressment" (Steven's "Life of Gallatin," p. 329). If this is intended as a rebuke I cannot assent. It is good statesmanship as it is good politics to abandon anything one cannot get, unless that abandonment be dishonourable or the thing necessary. (It is at least possible that other Presidents would have been well advised had they not insisted upon an empty formality which they had been refused.) No one but a fool keeps running his head against a stone wall. Britain in her existing state of mind would as soon have given up her national integrity as the right to impress for her navy. The downfall of Napoleon had made it very improbable that there would soon again arise a necessity for impressment; and Madison was wise not to continue a war for a form.

There met at Ghent, John Quincy Adams, an introspective Puritan sincerely a lover of peace, and Henry Clay a card-playing, pleasure-loving Cavalier who hated England and all her works and honestly believed that a few more years of war would bring her to her knees; with these were Bayard *le Chevalier sans peur et sans reproche* as his namesake of old, and Albert Gallatin, to my mind the ablest, most devoted, least selfish American of his time, one who has never received his due meed of praise. All these were men of very great ability; and with them was associated Jonathan Russell who was by no means a fool, though his inexplicable conduct a few years later in the episode of the "Duplicate Letters,"

in which he delivered himself into his opponent's hands, would almost brand him as such.

On the other side were Lord Gambier, who could command a ship or a squadron but not himself; Dr. William Adams, an able lawyer at his own Bar, but otherwise incompetent, and Henry Goulburn, afterwards Secretary of State. Of these, Goulburn alone rose even to mediocrity, and he but little, if any, above it.

These Commissioners met at Ghent, and it very soon became apparent that the British representatives were not anxious for peace. This was a matter of astonishment to those from the United States, who seem to have believed, as so many have believed since, that Britain was at her last gasp. The fact is that any reverses she may have suffered were as nothing compared with the mighty victories she had achieved in Europe; and she never looked upon the American War as a serious matter.

Territory she desired from the United States; a road from Halifax to Quebec, the control of the Great Lakes, room for a buffer land to be occupied by Indian allies; all of these were as impossible for the United States to grant as it was for Britain to grant exemption from impressment; and peace seemed hopeless.

To better her position, she determined upon invasion. In taking this step she was undoubtedly influenced by an erroneous view she had of the sentiment of many of the American people. New England and New York had voted against the war; during or before the war a whole political party had vehemently inveighed against it with solemn warning that it would destroy the Union; Massachusetts had declared and acted upon her detestation of the invasion of Canada; the Assembly of New York had, in February, 1814, in their reply to Governor Tompkins, savagely assailed the General Government; the Governor thought and said that " the Assembly had too much Massachusetts leaven in it to do anything favourable to the support of the country," and many Englishmen believed a great part of the American people were ready to revolt.

This idea was sheer folly. It was not understood that "ever since the adoption of the Constitution there was one thing that orators, North or South, inside the Halls of Congress and outside them, were agreed upon, that in all debates there was one argument equally good on both sides and to which there could be no reply . . . the solemn warning or the angry threat . . . that the bonds of the Union in one or another contingency were to be rent asunder." That kind of talk received its quietus only in the blood and agony of the great Civil War.

The belief that many Americans were disloyal to their country when they were simply opposed to the party in power was not unnatural; and yet Englishmen should have known better, for they knew that those most bitter in denunciation of His Majesty's Government were loyal to the core. The same mistake was made by General Hull, Governor Tompkins and many other Americans in respect of Canadians. Hull's proclamation is too well known to require quotation, Tompkins thought that Canadians would flock to the American standard, Clay that an army could march unopposed through Canada to dictate peace at Quebec or Halifax; so later on in our little Rebellion of 1837, the Sympathizers, and at the invasion of 1866, the Fenians, implicitly believed that all they had to do was to fly the flag of revolt and Canadians would join them almost to a man. It was the same mistake as was made by the South half a century ago when it was firmly believed that the Democrats of the North would take its part, or at least would not take part against it. But Sergeant Tillman Joy was not the only "old-fashioned Democrat" who laid his "politics away on the shelf to wait till the war was through."

Gallatin thoroughly appreciated this belief and its effect in England, and warned his home authorities that while the best they could hope for was the *status quo ante bellum*, they could not expect even that unless the American people were united. Seen from the other side of the Atlantic, New England seemed ready to break

away from the Union; and there can be little doubt that in England it was thought that no real resistance would be made by the people of those parts to an invasion and conquest.

England radically misconceived the opinion held of her by Americans; she could not get over the idea—she has not yet—that she was the mother of America and was looked upon with the same tenderness and love, not to say respect and reverence, as a mother in the flesh. Thus only is explained the pained amazement with which the declaration of war had been received.

No one but the very ardent patriot (in him everything is excused) looks upon the war of 1812 as an assault upon democracy; that "the supremacy of democracy and the progress of its ideals and purposes in" this country were contested. No one imagines that the war was begun or desired by Britain; but having been begun, no one doubts that Britain was not willing to leave off without some advantage. I venture to think that Britain was not desirous of acquiring territory occupied by those who would not cheerfully accept her flag. She had had much trouble a few years before in Ireland and more in America, and one Bunker Hill was enough. I think that she desired to cut off New England from the rest of the Union, not that she might add that region to her territory against the will of its inhabitants, but for strategic reasons and as a counter in the game to be played at Ghent.

The brilliant quintette of Americans met the blundering tactics of their opponents with much skill. The team play was superb, if the practice games amongst themselves and away from the Stadium were exhibitions of petulance, wilfulness and sectional selfishness. The British Commissioners were no doubt hampered by their instructions, but even these and the constant interference of their Government cannot explain, much less justify, their ineptitude. If Henry Goulburn had kept a diary like John Quincy Adams, and been equally honest with himself and frank in his disclosures, I think it would prove as instructive as the delightful self-exhibition

given us by Adams, and probably even more interesting and illuminating. Equally with the Americans they were amazed at the stand of their antagonists for they, too, thought peace would be welcomed on any terms; they skirmished for time.

America had, in fact, if not explicitly, given up all claim to better terms than the *status quo ante bellum;* formal instructions to that effect had not yet been sent, but it was an open secret that nothing better would be insisted upon. The wrangle (for it was not much if any more dignified than a wrangle) between Adams and Clay, would not prevent the conclusion of a treaty; and in substance it was the claims of the British Commissioners which stood in the way.

The Battle of Plattsburgh proved that there were no lukewarm Americans, no veiled treason, when it came to desecration of American soil. Federalist was as active as Republican, just as a quarter of a century later in Upper Canada the Radical carried a musket by the side of the high Tory in defence of his land. Thereafter there was no talk of opposing the Central Government. The Assembly of this State which in February had assailed its honesty and capacity, which could but grudgingly admire the prowess of the troops in defending their "Country eighteen months after the commencement of a war which the American people were told was to put the Canadas in our possession in six months from the time it was declared," now (October 9th), became more patriotic, if possible, than Governor Tompkins himself, rejoiced that the foe had failed in "the mighty efforts of his power to destroy this last Republic on earth" and refused to place reliance on former professions "calculated to authorize the belief that he was disposed to renew amicable relations with us on terms compatible with our independence and national dignity." And they undertook that "providing for the common defence of the State and nation, a well organized and efficient corps of uniformed troops" should be the leading object of their deliberations.

In June the Legislature of the State of New York

had seriously contemplated removal to New York City; in October the tone of confidence and triumph is everywhere heard, and the Senate was well justified in boasting of the unanimity and patriotism of all classes of the community in the existing crisis; we can forgive the suggestion that possibly the war was continued from "hostility to our civil institutions." The Governor, great in everything but orthography, was praised now by all for measures taken to defend the State, not long before rather looked on with suspicion.

Nor did New York stand alone. New England, while reluctant to aid in a vain attempt to conquer Canada, in the second campaign of 1814 gave more recruits than all the Southern States, Massachusetts indeed more than any other State in the Union.

Thus was made manifest the justice of the assertion of the American Commissioners that their giving up any part of the territory of the United States instead of making for peace would perpetuate hatred and ill will. "The conditions proposed by Great Britain . . . are dishonourable to the United States in demanding from them to abandon territory and a portion of their citizens. . . . A treaty concluded in such terms would be but an armistice. It cannot be supposed that America would long submit . . . nor recur to arms for the recovery of her territory. . . . Instead of settling existing difficulties such a peace would only create new causes of war, sow the seeds of a permanent hatred and lay the foundation of hostilities for an indefinite period." It was perfectly plain that no considerable section of Americans were willing to change their allegiance. That fact in itself was sufficient to discourage any further attempt in that quarter.

The American Commissioners were heartened by the result of this invasion. They had believed that an invasion would unite their fellow-countrymen; their faith was justified and they now knew they could rely on proper support from home.

The British Government, the real negotiators, the ostensible negotiators being but puppets, now knew that

nothing was to be gained by invasion. The subsequent attack on Washington was avowedly an act of retaliation for the destruction of York, Newark, Fort George; and permanent conquest was never there contemplated. The later attempt on New Orleans was possibly for conquest, but New Orleans was not yet, in fact, Americanized, and no small number of the inhabitants of city and surrounding country were not wholly reconciled to American rule.

Not only was it made manifest that Americans were unanimous in defending their national life, but it was as manifest that they were capable of doing so. All hope of success through divided counsels was gone; and then at last the British Commissioners were instructed to abandon their contention for an advantage, and to be placed in a better position than before the war. To the honour of Britain be it said that she refused to abandon her Red friends and the Indians participated in the benefit of peace.

It were an interesting speculation to try to determine what would have happened had the result of the battle been different. Suppose the invading army and navy triumphant, they would probably have made their way down the Hudson to New York and separated New England from the remainder of the Union. It is inconceivable that the part thus cut off could be permanently conquered. New England could not be made part of Old England without its own consent, and that consent is unthinkable. There was probably more in the movement resulting in the Hartford Convention than Theodore Dwight allows to meet the eye, but there was never real discontent with republican institutions or a real desire for the old monarchy; and indeed nothing worse could have happened to Britain herself than the reabsorption of any populated part of the Union under such circumstances. Let Alsace and Lorraine tell the tale—"Alsace" and "Lorraine" still, after more than forty years, and not Elsass and Lothringen in the hearts of their people. Let Ireland speak, but now after cen-

turies of sorrow and turmoil becoming mistress of herself and therefore reconciled to the Sassenach.

But the war would have been prolonged, blood and treasure would have been poured out, the problems made less simple of settlement. We can hardly imagine Britain consenting to call quits without some recompense for the death of her sons and the waste of her money. The practice had not yet arisen of requiring a money indemnity, and territory was the only means of payment. The cession of any populated territory was impossible unless and until the United States was beaten to its knees. A little less objection might have been taken to the cession of some almost uninhabited land of the northeast. There Britain certainly desired a road uniting her Maritime Provinces with the Canadas; but can anyone imagine the cession of one foot of American soil without bitter heartburnings and a legacy of hate? Ask a Canadian what he thinks of Alaska, and judge from his feelings in respect of land he has lost by the adjudication of an international tribunal, what those of an American would be concerning land he was forced to give up by the strong hand. Better war for an indefinite period with a hope of honourable peace at the end than a peace which could be no peace, because it brought with it abiding and eternal discord and hatred

It is extraordinary that Adams did not appreciate the effect of a cession of territory by Britain. We find him arguing to the British Commissioners that it was in the interest of Britain not less than of the United States that Canada should be ceded.

But, then, it has always been difficult for the American to understand Canada. In 1866 the Reciprocity Treaty was abrogated to force Canada into the Republic, and about the same time Sumner was assuring Britain that there could be no hope of a genuine friendship between the nations until Canada was ceded.

Cession was, in 1814, out of the question; and Plattsburgh made possible a peace on even terms, a peace into which each nation could enter without loss

of prestige; peace with honour which could be the basis for a long and harmonious friendship.

Even the "Mill Boy of the Slashes," who was ready for a war three years longer, though he thought the treaty "a d——d bad one," wrote Monroe (December 25th, 1814), "the terms undoubtedly are not such as our country expected at the commencement of the war. Judged of, however, by the actual condition of things; . . . they cannot be pronounced very unfavourable. We lose no territory, I think no honour."

The people of the United States were delighted, so were those of Great Britain. Of course some of the politicians, some of the papers, pretended to be chagrined at the result, but that was politics. It is amazing, as it is amusing, to see these ephemeral lucubrations taken by serious historians as serious history. A Canadian who remembers the Treaty of Washington and how it was received in Canada by a whole political party, should have no difficulty in estimating these at their real value. I shall mention to an American audience no treaty more recent than Jay's; I might be treading on dangerous ground were I to suggest that not uncommonly treaties like all other acts of State are likely to be taken advantage of for political purposes.

The peace of Ghent was the result of the Battle of Plattsburgh. That battle induced both nations to agree to the Rush Bagot convention of 1817, which freed our international waters from pollution by the keel of a ship of war (let us hope and pray, forever.) It laid the foundation for a century of peace.

A Canadian's View of the Battle of New Orleans.

Address at the Centenary Dinner at the Hotel Grunewald, New Orleans, January 9th, 1915.

(Note—Such parts as are merely introductory or have only a local or temporary interest are omitted.)

I have the very great honour and pleasure of representing here Ontario, the Queen Province of the Dominion, and in that capacity of bringing to the people of the United States, and especially to the people of the State of Louisiana, the hearty greetings of their northern Sister.

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The occasion enhances the pleasure which a visit to New Orleans must needs give a Canadian. We have for more than two years been celebrating the centennial of battles, victories on one side or the other, in that inconsequent fratricidal strife of one hundred years ago. Yesterday was the centennial of the Battle of New Orleans, and there will be no more to be celebrated—it is quite too much to expect that our friends of Alabama will invite us to celebrate with them the last military operation of the war, when on the 12th February, 1815, "the garrison" of the Fort near Mobile, "consisting of 400 men of the 2nd American Regiment," after the surrender of the day before, "marched out with all the honours of war and laid down their arms upon the glacis." We are through with battles; and while I am glad to do full honour to the gallant men who fought on

either side, I rejoice that we have no more battles to celebrate. What we celebrate now and to-night is not the war and the struggle between our peoples, not the last battle our peoples fought against each other, but the beginning of that century of peace which is their pride and boast.

You have said that never during that century has either country seen within its territory armed forces of the other. That is not strictly correct. The other day a Colonel of the United States Army told me that he expected the following week to march his command four miles in Canada. I replied that he might, if he would, march them four thousand miles in Canada, and receive a welcome at every mile. This was, however, a friendly and not a hostile raid.

Not many months ago, speaking on a similar occassion at Plattsburgh, I said that the Battle of Plattsburgh made the Treaty of Peace possible, because it had its effect in bringing the British to moderate their demands so that terms honourable to all could be agreed upon—Peace with Honour could be assured. The Battle of Plattsburgh made the peace possible; the Battle of New Orleans, in my view, made it palatable and therefore permanent. In saying this, I do not affect to give the official Canadian view—if there is such a view —not the Canadian view, but one Canadian's view, which may or may not recommend itself to others, Canadians or otherwise.

In considering the course of that extraordinary last "Anglo-Saxon War" I have found it well to study chiefly the writings of Americans contemporary and subsequent. Canadian writers are wont to magnify all the circumstances of that war—not unnaturally, since their land it was which suffered most from its ravages; their land it was whose development was delayed a quarter of a century or more by that war. English writers, on the other hand, cannot be got to look upon it as of any consequence; they seem to regard it at the worst and at most as an inconvenient and regrettable but unimport-

ant episode in the midst of a life and death struggle with an Emperor determined to achieve world power and backed by a people unanimous—enthusiastically unanimous—in his support. I do not mean to say that American writers are impartial; they are not; but the facts can be gathered from them, and allowing a judicious discount, their inter-relation and significance can be fairly arrived at.

From American sources it is plain that the war was not popular in New England and New York. The ships in Boston Harbour hung their flags at half-mast when war was declared; the Administration from the beginning to the end came in for unlimited criticism, and what we in this more gentle and considerate age would call abuse. The East did not contribute many troops, comparatively speaking, until invasion was threatened on her own shores, and then rather for protection than attack.

The mainspring of the war was Henry Clay, the "Millboy of the Slashes"; his War Hawk Party were its most ardent advocates; and the charge of Madison's political opponents that the declaration of war was for political purposes must be discounted so far, at least, as it refers to any political scheme of the President's own.

Madison, then, was very wise to send Henry Clay as one of the American Commissioners to consider the terms of peace, and Clay had an infinitely difficult task to perform. He probably did not himself desire peace on any terms—at least, not for a time; his party certainly did not, unless the humiliation of Britain accompanied or preceded it; nevertheless, he was compelled ostensibly to work for peace; he could not take an open stand against the peace desiderated by his Government.

After the instructions of the President to the American Commissioners to give up the demand that Britain should formally abandon her claim to search American ships on the high seas and to take therefrom British-born sailors, settlement on the basis of *status quo ante bellum* was well in sight. Two things were to be feared: the anger of the West and the jibe of the East.

That the East would sneer was certain. Witness what was said in the *New York Evening Post* of November 11th, 1814:

> "Thomas Jefferson deputed two Ministers to Great Britain for the ostensible purpose of negotiating a treaty with that power. These men, Messrs. Munroe and Pinkney, high in the favour of the President, concluded a treaty with the British Commissioners on the 31st December, 1806. This treaty, on its arrival in this country, Mr. Jefferson REJECTED because it contained no stipulation on the part of Great Britain to relinquish the right to search merchant vessels for deserters; rejected it, too, without laying it before the Senate, thus assuming the sole responsibility of all the evil which might follow.
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> "This peremptory rejection by Mr. Jefferson of a treaty which, if accepted, would probably have invigorated our commerce and given a new impulse to our prosperity, was universally considered as indicating on the part of this Government, so long as democracy wielded it, an unalterable determination never to conclude a treaty with England UNTIL SHE FORMALLY SURRENDERED THE RIGHT OF SEARCH. NOW MARK THE CONTRAST:
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> "THUS we see that after a period of seven years in which the country has groaned under Embargoes, Non Importation and Non Intercourse acts, with a large progeny of enforcing laws, abridging and almost annihilating Civil Liberty, a period of three years of which has been marked by a disastrous war, Madison is compelled to abandon his predecessor's ground, and solicit the very terms which Jefferson rejected."

And the *New York Evening Post* was by no means the most waspish of the Eastern journals.

But if peace should not be obtained, the danger in that part of the country seemed even more threatening. More than one paper urged the legality, and more than hinted at the advisability, of the North-East withdrawing from the Union. The *Connecticut Spectator*, the *Boston Gazette*, the *Boston Daily Advertiser* and *Portsmouth Oracle* were outspoken, while the more conservative *Hartford Courant* and *Columbia Centinel* were not far behind. Calhoun was by no means the first Nullifier; and it is not all unlikely that there was more in the Hartford Convention than its annalist permits us to see.

In that part of the country there was no great loss of popularity to be feared by the signing of a Peace Treaty. In the South and West, however, peace without the humiliation of Britain was certain to cause an outbreak of angry passion. No one could forget the treatment meted out twenty years before to John Jay when he returned with a treaty which did not fulfil the hopes of a large party in the United States.

John Jay, of whom Daniel Webster said: "When the spotless ermine of the judicial robe fell on John Jay it touched nothing less spotless than itself"—John Jay, the Chief Justice of the United States, was openly charged with selling his country; he was accused of the worst and most despicable motives; he was hanged in effigy, he lost the dearest hope of his heart, the Presidency of the United States—because he had not achieved the impossible and had not brought home a treaty which Britain refused to give.

All this, the Commissioners knew—and it is to the credit of all of them—most, perhaps to the credit of Henry Clay—that they affixed their signatures to a treaty which bade fair to engulf them all in popular opprobrium. In my humble judgment Henry Clay has never received the credit which was his due for this act of self-abnegation.

Had there been an Atlantic cable at that time it is more than likely that the Commissioners would have been received with execration; but before the news of the Treaty reached the Republic, the whole atmosphere was

changed. Pakenham's attack on New Orleans had been repulsed, the riflemen of the Mississippi Valley had verified the boast of their admired leader that they were a match, and more than a match, for Britain's best and bravest; the Red Coat had again been defeated by the Butternut on American soil. In the midst of the jubilation over this event came the news of peace. The Valley of the Mississippi, which was most opposed to peace, rejoiced in a brilliant victory of its very own, and was perfectly content to let the fight end, the last round being in its favour. Had it not been for this victory it is most likely that the inconsequent peace, leaving nothing gained for which war had been proclaimed, would have met with a reception such as that met by Jay's Treaty in 1794: but now Clay was vindicated and the "Britishers whipped."

From this battle, indeed, arose the curious myth for long sedulously taught by the school histories of the United States, that the war was an almost unbroken series of glorious victories for its arms, that the British were almost everywhere defeated, that what was dubbed in advance "the Second War of Independence" was as triumphant and successful as the first. But no great harm has resulted from this pleasant delusion, and it would be almost a pity to disturb it.

This battle has always reminded me of the Irish duel between a very stout man and a very thin one. The stout man was not allowed his request that he should stand twice as far away from his antagonist as his antagonist from him, but his second made matters all right by drawing vertical chalk lines on the fat man's body with a space between them equal to the width of the thin man, and stipulating that no hit outside of these lines should count. This battle was outside of the war and therefore "should not count." It had no effect in bringing about the peace; and yet it was, if anything, more effective than if it had been fought before the peace was arrived at. The West and South jubilant, and the prowess of American arms triumphantly vindicated, the mouth of North and East was closed, and the

whole nation was content to let bygones be bygones and start on a new era of peace.

On the other side of the Atlantic the peace was received with what to a Canadian seems exasperating indifference; and the anger of Canadians, burning to avenge the destruction of York and Newark and the defeat of Put-in-Bay was ignored. Even the taunts of a bitter Opposition in the Houses of Parliament at Westminster proved incapable of rousing a war feeling. Britain was content. Nor was there any temptation for the United States to renew the conflict when the Emperor again rose. Nothing had been gained by the war, honour had been satisfied, and the paths of peace were alluring.

So for a hundred years the English-speaking peoples have been at peace, and this because they believe that peace is the normal and predestined state of man, that war is not a good in itself, but is to be adopted only when it is the least evil of all the evil courses open, and then only that peace may come and abide.

No doubt there were occasions not a few when each people failed in the highest justice in its conduct toward the other; no doubt many a time and oft other nations could rightly complain of the conduct of the one or the other toward them.

But on the whole, and speaking generally, despite a hundred stumbles and falls, there has been fidelity to the pledged word and the dictates of the moral law.

Some of us had hoped that the example of these two peoples would have taught the nations that war is unnecessary. That was not to be. The present terrible conflict may be the last; but if this hope prove in vain, we should not despair; the cause of peace must advance, though, as with the rising tide, there will be receding waves.

Whatever be the fate of others, as to your nation and mine, I hope and believe that as between themselves they have finally and irrevocably decided there shall be eternal peace; the peace already well begun shall continue *ad multos annos*, yea, *in aeternum*.

For if, as we believe, there is a moral Governor of the Universe, governing by a moral law; if our people have that sense of law which equally with the starry heavens filled the German philosopher with awe—and that is my faith—it is as certain as to-morrow's tide that your people and mine on this Continent, over the Sea and around the Seven Seas, must in the future as in the past be firm in the determination that nothing shall break the bond of amity and good-will which binds them together.

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The Century of Peace and its Significance.

An Address before the Oberlin College, Oberlin, Ohio, February 22nd, 1915.

(Note—Such parts as are merely introductory or have but a local and temporary interest are omitted.)

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Within the past few months I have taken part in the celebration at Plattsburgh and New Orleans of noteworthy battles, and I have said at these places that the Battle of Plattsburgh made that peace possible and the Battle of New Orleans made it palatable, and therefore permanent. I have no doubt that these statements are wholly true, but they are not all the truth, for very much more than battles went to both the birth and the long life of the peace.

The extraordinary spectacle of an international boundary of nearly four thousand miles existing for a century without a fortification and without even a garrison post has rightly attracted the attention of the civilized world. In length, in period of existence and in the pacific relations of those on either side, this boundary line is unique, the miracle of the nations and of the ages. The length rests upon geographical reasons, its period of existence and these relations upon the characteristics of the peoples, their ideal of life and of international conduct.

Much has been said—not too much—of the identity of the language of the two peoples.

We are told by those who should know that no one can understand the genius of a people who cannot think in their language and speak it. There is no little truth

in that sentiment, strange as it seems at first hearing. For myself, reading but not speaking German, I find it impossible even to follow the reasoning of some of the Apologiae recently put forth from that land and I hope I fail to understand precisely what the Germans desire to attain through this war.

No doubt those who speak the same language understand each other as they could not did they require an interpreter. But that cannot explain why the Peace has been kept. Athens and Thebes had substantially the same language: Sparta's was not more divergent from it than Lowland Scotch from English; yet Athens and Thebes and Sparta were seldom at peace *inter se*. Before the Union of the Crowns in 1603, England and Scotland were very frequently at war, but their language was practically the same. Prussia and Austria had to fight out their differences fifty years ago. Our common language enables us to know each other, indeed; and Charles Lamb indicated a profound truth and one creditable to human nature when he said " I cannot hate a man I know." But there was more than language.

Identity of descent had some effect, but 1776 and 1860, the Revolution and the Civil War furnish a conclusive proof that that was not enough. Nor was identity of religion, for witness Austria and France, Britain and Germany.

It was the fundamental conception of international right and duty.

There are only two principles of international conduct worth considering: The first, " Might makes Right; Might is Right. I can, therefore I ought and will." The other, " Right is Right, and because Right is Right, to follow Right were wisdom in the scorn of consequence."

The first of these is the principle of primeval man vindicating his claims by his own strong right arm, they " should take who have the power and they should keep who can." No community could exist in which

this principle was allowed to continue as the governing principle in matters between man and man; and accordingly within the clan there must needs arise some rule by which right should be determined. Right must in some way appear other than by mere force and violence. Every nation, even the most savage, has such a rule for its members; no nation which has none could endure.

But in international matters, for long no such law was sought or applied. The foreigner was an enemy against whom everything was permissible, violence and destruction even laudable; the foreign nation had no rights which one's own nation was bound to respect. While international law has arisen and made some advances, it is but a wan etiolated simulacrum of law as applied between citizens of the same nation. It has no court which can effectually summon an offending nation; and there is no sufficiently powerful police to enforce its mandates. Accordingly we must at all times expect that the strong nation may become an aggressor and that sometimes the only right underlying an attack is Might.

The other principle is but an extension to international concerns of the morality and the rules adopted between individuals: Right is Right.

A course of conduct may be right for several reasons; it may and its opposite may not be in accord with the eternal principles of the moral law; or, indifferent ethically, it may be in accord and its opposite not with positive legal precept; or both ethics and law being silent, it may be prescribed by agreement. An act transgressing the moral code, the legal code, the contract, is wrong. The people who commit it may be strong, irresistibly strong, learned, wearisomely learned, ostentatiously pious, may make many excuses, explanations, what not—they stand a transgressor and a criminal in the face of Almighty God—or there is no Almighty God.

With Might as the determining principle, the stronger nation demands what it desires, the weaker temporises and ultimately gives up what it must or has

that taken from it irrespective of the rights and wrongs. The stronger is the ultimate and final judge of what it is to receive.

Where Right prevails, the matter in controversy may become a subject for diplomatic consideration indeed, and the question is not uncommonly apparently only "How little can I get off with giving up?" but the substance always is "How much should I in justice give?" Might takes, Right gives. With two nations actuated by the law of Right, most matters can be adjusted without much difficulty; if diplomacy fail, the matter in dispute may be determined by some tribunal.

This method is wholly inconsistent with the principle boldly and baldly laid down in some quarters that "to a State a favourable verdict by a Court of Arbitration can never be equivalent to a victory won by war." Such a principle is at bottom based upon the hypothesis that war is a good in itself—a hypothesis supposed to be founded in the immutable laws of nature—and human nature.

We have in these days seen it stated, "War is in itself a good thing. It is a biological necessity." "Efforts for peace would, if they attained their goal, lead to general degeneration, as happens everywhere in nature where the struggle for existence is eliminated." "The State is justified in making conquests whenever its own advantage seems to require additional territory." "In fact, the State is a law unto itself. Weak nations have not the same right to live as powerful and vigorous nations."

The propositions, repugnant as they are to our sense of right, are wholly intelligible as is the principle which necessarily flows from them, a principle also most unflinchingly advanced, that the individual exists for the State, not the State for the individual—a recrudescence of the ancient and outworn theory of the Greek to which many of us thought that modern civilization had given its quietus.

It seems to me that the course of dealing between

the United States and Britain—amongst the English-speaking peoples—shows that the rules by which they have governed themselves in their international relationships are those prescribed by the laws of justice and right. I do not at all mean that in every case this was so. *Humanum errare est; homo politicus* is not always *homo sapiens;* in too many cases, patriotism, always unjust, has misled the statesman on one side or the other; "My country, right or wrong," is a convenient rule to follow in peace as in war, and those in authority have not always been "too bright and good for human nature's daily food." And, too, while our methods of choosing rulers are as good as any yet devised, popular opinion is fallible, mistakes are made, the fool ye have always with you, and one fool can do more mischief in five minutes than ten man can set right in a year.

Sometimes, indeed, mistakes have been made by reason of the pace with which operation must necessarily be carried on in time of war. Sometimes the rights of the belligerent have been placed a little too high, those of the neutral a little too low.

Outside of my window at Osgoode Hall are drilling day by day from dawn to dark the flower of the youth of Canada, destined to become the target of cannon, shot and shell. Many of these I know, many are the sons of my best friends, they are mine own people, mine own flesh and blood; and when I see them preparing themselves for a struggle which must to many mean wounds and agony and to no few death, even I, judge as I am, cannot look with too critical an eye upon means which may shorten that struggle and save these young heroes for their country even if a neutral may not make quite so much money as he otherwise would or might.

It may be that the present generation of Americans cannot enter into these feelings; a former generation could and fully. Sixty years ago the people of this nation listened with amazement hardening into contempt to the complaint of England over her lost cotton imports, for that generation fighting a desperate fight

for human liberty had no patience with complaints over the loss of a little money and no respect for those who to make a profit would not hesitate to embarrass their struggling brethren. If that generation of Americans made mistakes in international law—and they did exercise a right against the assertion of which by Britain, Jefferson and Madison, Pinkney and Marshall protested and almost if not quite threatened war—if they did make mistakes I for one will not blame them.

If you in the stress and strain of the Civil War did some things not strictly warranted by International Law, so we in the struggle against an Emperor who a hundred years ago fought for mastership of the world went beyond the warrant given to belligerents. In a struggle for national existence a mere question of dollars and cents and neutrals' profits becomes of infinitesimal importance. If to bring a war to a successful termination, neutral trade must be made to suffer, it will, in most cases, be made to suffer. Blood is thicker than water, but it is also heavier than gold.

I do not assert that either nation has always been blameless in its conduct toward the other. Still less do I say that in dealing with other nations either you or we have always been actuated by the highest or even by proper motives, that we have always been free from the sin of coveting what is our neighbor's or that all our wars were just. I am as little inclined to boast of the Opium Wars as you of the Mexican Expedition seventy years ago.

But *exceptis excipiendis* and speaking generally, I have no hesitation in saying that both nations have, in their dealings with each other, sought the right; the right whether declared by the law of God or the international law of human convention or determined by previous agreement. A scrap of paper where a name was set we have held "as strong as honour's pledge or duty's debt."

Unless I am wholly mistaken, it is precisely this conception of international conduct which has preserved for us the peace for a hundred years.

It should not be forgotten that the peace had previously been kept for a generation—and that through the same rule of conduct.

The substantive Treaty of Peace, September 3rd, 1873, had laid down as one boundary the River St. Croix. No lines were drawn on the map to indicate what river this was; no note made by the Commissioners as to what they meant; and at least two rivers might reasonably be held to bear the name. In the United States, the feeling was as strong then as now that "no foot of American soil can pass from under the starry flag"; Britain had for generations said as she now says, "What we have, we hold." All the elements existed for "a just and necessary war"; but the two nations thought it a question of fact to be determined by judges, and so, most tamely—some fire-eaters said, most ignominiously—restrained their armed forces and submitted the matter to three lawyers. David Howell, Judge of the Supreme Court of Rhode Island, and Thomas Barclay, of Annapolis, Nova Scotia, a pupil of John Jay's, were chosen. They two selected as the third, Egbert Benson, formerly a judge of the Supreme Court of New York, and afterwards judge of the Circuit Court of the United States, because he was "cool, sensible and dispassionate."

Can you not see the indignation, hear the outraged cry of true patriots on either side of the Atlantic at this "mollycoddle" way of determining a question of national territory? For how could any true lover of his country bear to have her rights determined by anyone who is "cool, sensible and dispassionate"? Why not adopt the easy code: "I wanted that land and I took it"?

Other disputes were about the same time left to Boards of Arbitrators appointed by the two nations; how much the United States should pay British creditors; how much Britain should pay American citizens for the illegal seizure during the Napoleonic Wars.

As to the former the Treaty of 1783 had stipulated that creditors on either side should meet no lawful

impediment to the recovery of the full value in sterling money of all *bona fide* debts theretofore contracted. Some of the States refused to implement this agreement, and British creditors were deprived of their honest claims. The United States could not coerce the States, but they did not therefore repudiate the clause in the treaty—did not say, "We thought we could have this agreement carried out, but we cannot, accordingly we do not consider ourselves bound." What was said was, "We cannot compel the States to do the honest thing and the thing agreed to by us, but we will pay out of our own funds." And they did.

So, too, Britain did not say, "Necessity knows no law, we had to seize your ships to save our nation, and we will not pay." What was said was, "What we did we did in our bitter need, but we had no right to do it, and we will pay the damages."

Britain indeed absolutely refused the demand of Washington that she should pay for some 3,000 negro slaves taken away. "These," she said, "ceased to be slaves when they reached the British lines, and neither by God's law, international law nor agreement are we bound to pay for them." And she did not. Nor did the United States go to war to try to compel her to do so.

Then came the fratricidal war of 1812-14. This is not the time or place to consider how far it was justifiable or reasonably necessary. Dignified in advance as the Second War of Independence, in its inception it nearly clove the Union in two and it ended inconsequent, leaving nothing decided for which it had ostensibly been begun and carried on. It left behind it a legacy of hate not yet wholly spent, in my Province it put back for more than a quarter of a century her progress, and if it did good to anybody other than a few contractors and Government employees, I have not been able to discover an instance.

Inconsequent as it was, the sound judgment of both peoples insisted on it coming to an end and peace began, never, please God, to end.

In the Treaty of Peace, the Commissioners agreed to the terms of the *status quo ante bellum*. There were, however, a few matters in dispute which they were not able to determine and which should be determined in the interests of peace. Thereafter the international relations of the two peoples are largely a commentary on the Treaty of Peace, the Treaty of Ghent and the later Treaty of Washington of 1871.

The precise position of the boundary line has been in controversy more than once. Down in Passamaquoddy Bay there were some islands claimed by both the Province of Nova Scotia and the State of Massachusetts, a splendid chance for war for "inalienable national territory." The true ownership depended upon the interpretation of the Treaty of 1783, and the two Governments determined to leave the matter to two lawyers. Thomas Barclay was one—him we have already met; the other, John Holmes, who had served several terms in the Massachusetts Legislature, and who was, when in 1820 Maine was admitted as a State of the Union, selected to represent her in the United States Senate. These two, like sensible men, gave up each a part of his individual opinion, and divided the islands, giving Moose, Dudley and Frederick Islands to the United States and the rest along with the Grand Manan to Nova Scotia.

Then the boundary of the Great Lakes was not quite certain; and again Commissioners were appointed to settle it. Anthony Barclay (son of Thomas, whom we have met and shall meet again), took the part of British Commissioner in the place of John Ogilvy, who died at Amherstburg, Upper Canada, from a fever contracted in the discharge of his duties. Peter Buel Porter, who had been a very competent commander in the war and was to be Secretary for War in John Quincy Adams' Cabinet, was the other. They made an award at Utica, in 1822, wholly satisfactory then and now to all parties.

A very difficult question of boundary still remained, "The Northeastern Boundary." The Treaty of 1783

spoke of the "Highlands," and the two nations could not agree on where the "Highlands" were. Thomas Barclay and Cornelius P. Van Ness, afterwards Chief Justice and Governor of Vermont, who were appointed Commissioners, were unable to agree, and the question was left, in 1827 to William, King of the Netherlands. His award in 1831 was not satisfactory to the United States, and Britain agreed not to insist upon it. After considerable negotiation, Lord Ashburton and Daniel Webster agreed upon a line (in 1842) which has been acted upon ever since. This line was and is exceedingly awkward for Canada, an elbow of Maine sticks up into her ribs, and her Intercolonial Railway has been compelled to make a long detour to avoid American territory, while there is no corresponding advantage to the United States. But the line was agreed upon and the matter is settled.

This controversy illustrates, it seems to me, our manner of thought. The boundary as defined by the Treaty of 1783 neither party at any time attempted to get away from. When it was found that the words employed were not sufficiently definite to make clear the precise boundary intended, there was still no threat of war, much less forcible entry. Two commissioners were selected, lawyers of eminence, to find out exactly what was meant. They disagreed—a disagreement which might quite naturally arise from national feelings and prejudice: it was left to a foreigner—and a foreigner in such high position that no thought of corruption or dishonesty could arise. His award was claimed by the United States as not having been made on the proper basis. Britain, in view of this claim, instead of insisting on the award, as technically she might, agreed to disregard it. I have thought that her conduct on this occasion may well be likened to that of the United States but last year. Britain claimed that the United States had bound itself not to give any advantage to its own ships in the Panama Canal; the United States took another view of the Treaty and made regulations

by which certain ships of the United States had an advantage. But on consideration of the view taken by Britain of the Treaty, it reversed its action and without assenting to the validity of the British contention, acceded to it because the other party to the treaty thought that was what the Treaty meant; nor was the plea of change of circumstances, earnestly pressed as it was, even listened to. May I, as one who loves the American people, say that to my mind they never rose to a higher plane of international good faith than when they said to Britain, "You thought we meant that, so let it be"? But as a Briton I venture to point to a precedent for this action, eighty-five years before, little known and little thought of.

One school of politicians would say that both the nations were fools. What say you?

This was by no means the end of the territorial disputes.

The international boundary was, as we have seen, settled by Commissioners, at the East and through the Great Lakes and international rivers through the Lake of the Woods. In 1818 from the Lake of the Woods to the Rocky Mountains the parallel of 49° N.L. was agreed upon through diplomatic means; but West of the Rockies the line was in dispute. The Convention of 1818 allowed the citizens of each nation to settle in the disputed territory. Attempts were made in 1823 and 1826 to fix the line, but in vain. In 1827 the arrangement as to settlement by either people was renewed indefinitely. Britain claimed as far south as the mouth of the Columbia River, between 46° and 47° N.L., the United States as far north as 54° 40′. Polk's election was fought on the slogan "Fifty four forty or fight." Polk was elected, but no fight came on, although Britain firmly refused to assent to fifty-four forty; both parties thought it better to compromise and (in 1846) they agreed that the line of 49° N.L. should be extended to the Pacific. Of course the jingoes on either side were outraged, each government was charged with craven submission to unjust demands of the other; true national feeling was again dead and the doom of the Empire—or the Republic—was sealed.

The troubles, however, were not over. Some British subjects had peaceably settled in the territory south of this line,and for land and improvements of which they were deprived, they asked to be paid. The United States cheerfully agreed to pay, and to determine the amount, two Commissioners were appointed. These were such unpatriotic men that they (in 1869) agreed upon the amount without even troubling the umpire, Benjamin R. Curtis.

Even yet the whole matter was not got rid of. The Convention of 1846 had fixed the line at 49° to the middle of the channel which separates the continent from Vancouver Island and thence southerly through the middle of this channel and of Fuca Strait to the Pacific Ocean. Geography has a way of laughing at diplomacy. There were three channels, any of which might fairly be called the main channel. Britain claimed that nearest the mainland, the United States that nearest Vancouver Island, and the intervening islands were the bone of contention. In 1869 it was arranged to leave the dispute to the determination of the President of Switzerland, but the Senate refused to agree—the irritation which arose during the Civil War had not been allayed. British subjects settled in San Juan Island; General Harney landed an armed force and took possession of it for the United States; Britain had men-of-war available and only prudence and forbearance prevented an armed conflict. But there was no war; a peaceful joint occupation was agreed upon, and in 1871 the Emperor of Germany was asked to decide the channel. This he did the following year in favor of the United States, and Britain withdrew.

Then came the last dispute as to territory. The boundary of Alaska was for some time in doubt. Joint surveys agreed upon in 1892 did not satisfactorily determine the true line, for it was not a matter of surveying. At length in 1903 the determination of the boundary was left to six " impartial jurists of repute " who made an award in the same year. The award was not received

with much favour in Canada; much complaint was made that some of the American Commissioners were not "impartial," and that the award was not in fact judicial. But there never was a thought of disputing its validity or of refusing to be bound by it.

So we have fixed our four thousand miles of boundary without a fight, without the effusion of one drop of blood, without scarcely the lingering remains of a temporary irritation.

The rights of fishing have also been in controversy. By the Treaty of Peace, 1783, certain rights were given to American citizens in the Atlantic fisheries. These were not as much as mentioned in the Treaty of Ghent of 1814 (the story is a curious one, but too long to be entered upon here); it was claimed by Britain that after the War of 1812 Americans had no right to fish in British territory, and a rather dangerous dispute arose. In 1818, however, the matter was arranged by diplomacy, and the limits within which Americans might fish were laid down. When the Reciprocity Treaty was made in 1854, the advantages given up in 1818 by the Americans were restored so long as that treaty should be in force, and an international commission was provided for which should lay off the limits within which Americans should have the right to fish. In 1866 the United States denounced the Reciprocity Treaty and these rights were lost. But who ever heard of a fisherman who was content to fish only in his own waters and to give up fishing where he had been accustomed? Not unnaturally the American fishermen trespassed, and this caused no little irritation between the two peoples. In 1871, by the Treaty of Washington, the amount to be paid by the United States for this improper and illegal fishing was referred to three arbitrators, and they, in 1877, made an award at Halifax. The amount, five and a half million dollars, rather startled the United States but it was paid within the time allowed by the Treaty.

The convention of 1818 had given to American citizens certain rights of drying and curing fish, etc., not

very definitely expressed; and constant friction arose over these matters. Then there were questions concerning the right of the British Colonies to make regulations as to fishing, bait, etc.; and generally the "fishing on the Banks" was a perpetual subject of diplomatic correspondence and controversy, charges and countercharges of wrongdoing and unreasonableness. At length it was decided to leave the whole matter to a tribunal chosen from the members of the Permanent Court at the Hague—an American and a Canadian Judge, an Austrian professor of Law, a Dutchman and an Argentine, all "jurists of repute." Their award in 1910 was so satisfactory that both parties were triumphant, each hailed the decision as a victory for its side, and for once no one thought of "cursing the Court."

All these questions, it will be seen, depended upon the interpretation of written documents, agreements made between the parties which neither party tried to repudiate but which were interpreted differently. There was, however, another matter not unlike the fishing dispute which did not depend on agreements but upon rules of international law involving dominion over the open sea. Russia's attempt at ownership of the Behring Sea had been protested against by both Britain and the United States; but shortly after the acquisition of this territory by the United States, legislation was passed at Washington which appeared to assert jurisdiction similar to that which had been claimed by Russia. This had for its avowed object the preservation of the fur seal in Behring Sea. Even more definite claims of ownership of this sea were soon made by the United States. Canadian vessels repudiated the authority of the United States and continued sealing in that part of the sea in which they had been accustomed. Some ships were seized, some Canadians imprisoned, some turned adrift in California. When we remember that the seizures were sixty miles from land, the serious nature of the claim to territorial sovereignty is apparent. This state of affairs was intolerable: Canadians would seal, American cruisers would capture their ships and men. At

length in 1869 the matter was left to a Board of two Americans, one Englishman, one Canadian, and one from each of the countries France, Italy and Norway. Their award was made in Paris in 1893 and proved generally satisfactory. The amount of damages to be paid Canadians, etc., was fixed by two judges, one an American, the other a Canadian; no umpire was necessary, and the amount, nearly half a million, was paid without a murmur.

Mere money claims have sometimes rested on positive agreement, sometimes on the rules of international law.

A very curious dispute arose over one of the terms of the Treaty of Ghent. By Article I it was agreed that all territory taken should be restored, without carrying away of slaves or other private property. Many slaves had come within the British lines, attracted by a proclamation which virtually promised them freedom. (It may be remarked *en passant* that it was this conduct of the British commanders which came in for the bitterest comment by Americans, especially those of the South.) These quondam slaves had accompanied or preceded the British forces in their abandonment of American soil, and it was demanded that they should be returned or paid for. The British claim was a perfect example of legal hair-splitting and worthy of a special pleader; but it was *in favorem libertatis*, and a plea of that kind, like a plea *in favorem vitae*, has always been looked upon with favour in English-speaking courts. There was never any thought of delivering up the poor blacks, but the question of obligation to pay for them was an open one. It was finally left to the Czar of Russia, and he determined in favor of the contention of the United States.

Partly by arbitration of four commissioners, and partly by diplomacy, the amount was fixed at about a million and a quarter dollars. That sum Britain paid and kept the negro.

After the Treaty of Ghent many claims were made by American citizens against Britain for illegal seizures

of ships, etc., and by British subjects against the United States for the same causes of complaints, for arrest of British subjects, and the like. These were in 1853 referred to a Board of three commissioners. Britain chose Edmund Hornby a lawyer of standing, who was afterwards Judge of British Courts in Constantinople and Hong Kong; the United States, Nathaniel G. Upham, for some years a Judge of the Supreme Court of New Hampshire. These two tried to induce Martin Van Buren, ex-President of the United States, to act as umpire, but he declined, and they then chose Joshua Bates, a member of the London banking firm of Baring Bros. and Co., but an American by birth, education and allegiance. As matters turned out each nation got an award about equal to that of the other.

Another and a very serious dispute arose later, which could not be determined by any pre-existing agreement nor even by the rules of international law: there was no such agreement, and the parties did not agree as to the law. A claim was made by the United States for damage due directly, and for still more damage due indirectly, to Britain's conduct during the Civil War in allowing Confederate cruisers to be fitted up in her waters and to escape to destroy American shipping. A most unpleasant and dangerous controversy arose, inflamed beyond a doubt by the anger in the United States against the Old Land for the conduct of her governing classes during the crucial struggle for human liberty. War was in the air more than once; but both parties wished for what was right; neither thought it would be better to obtain what was right by means of war; and it ended by the two peoples (in 1871) agreeing between themselves upon the principles which they should adopt as the law governing the case and leaving the determination of the amount to a tribunal of five—an English Chief Justice, an American publicist, an Italian judge, a Swiss advocate and a Brazilian professor of law constituted the Bench; and their award, dissented from as it was by the British representative, was paid without demur.

By the same treaty (that of Washington, 1871) a Board was formed of three—an English and an American judge, with an Italian diplomat—to pass upon certain claims arising from what was considered the unneutral conduct of Canada, also upon certain claims by British subjects for improper seizure and detention of ships, illegal arrests, destruction of property, etc., by the United States. None of the American claims was allowed; about two million dollars of the British claims were held valid.

How do we stand at present? In the first place, we have made it impossible to have immediate naval warfare on our Lakes. As far back as 1817 it was agreed that there should be no ships of war upon the international waters. Then the United States and Canada have an agreement dating back to 1909 whereby a permanent Board is formed, composed of six members, three appointed by the United States, three by Canada. This Commission has jurisdiction over all cases involving the use, obstruction or diversion of the international waters; but also all matters of difference between the countries involving the rights, obligations or interests of either in relation to the other, or the inhabitants of the other, along the frontier are to be referred to this commission for enquiry and report. Moreover, any matter or question of difference involving the rights, obligations or interests of the United States or Canada, either in relation to each other or to their respective inhabitants, may be referred to it for decision. This commission I have more than once called " a miniature Hague Tribunal of our own, just for us English-speaking nations of the continent of North America."

I need not speak of the general treaty of 1908 nor of the recent treaty which is meant to delay military operations and to give the nations a chance to consider their dispute in all its bearings.

It is plain—he who runs may read—that we have been so satisfied with the Century of Peace that we are making every effort for its continuance *ad multos annos.* In every way peace has *paid.* Let no one persuade him-

self that the war of one hundred years ago did anything to teach the peoples respect for each other or to bring them into harmony. Whatever may have been its effect, if any, in welding the Union together, internationally it was wholly evil, and its evil effects still continue. It was the peace, the ways of peace, which brought us together and made us almost one. What American but finds himself at home in my Canada, what Canadian considers himself a foreigner or an alien in the United States?

What of the future?

I read that Maxim, the great inventor, says that after the present war the United States must fight the victor. I confess scepticism about the United States being forced to go to war with any people. I have heard many times of its being obliged to fight Britain: not many years ago, war with Germany was inevitable (over some nitrates, I think, and later in the interests of Standard Oil) : Mexico has been its predestined victim dozens of times; and when no other antagonist is above the horizon, Japan invariably appears.

But Maxim may be right. He is undoubtedly right if that victor, be it which nation it may, hold as a cardinal doctrine of international conduct that war is good in itself, that war is necessary for the highest development of a nation, or the like accursed creed. Any nation which believes—and does not simply say that it believes —that " the living God will see to it that war shall always recur as a terrible medicine for mankind," will not fail itself to play the physician and administer the prescription if the Almighty seems not sufficiently attentive to His duty.

And if the victor live the doctrine, Might makes Right, the time will surely come when Right will be made by Might; while in the meantime this Republic, to which countless thousands have fled for the chance to breathe without the load of military conscription and tax, must in the meantime be ever prepared, paying for that preparation the inevitable price in money, anxiety and the brain and brawn of her sons—her sons who will thus learn, as no otherwise could they learn, what is

meant by the principle, " The citizen exists for the State, not the State for the citizen." If the victor be a nation which loves peace, which will seek peace and ensue it, which acknowledges that there are other and higher rights than such as may be given by the will of the stronger, that the moral law is of validity in conduct towards other nations, that the pledged word must be kept, a nation that walketh uprightly and worketh righteousness and speaketh truth in its heart, sweareth to its own hurt and changeth not, then the nation which brought about the peace of Portsmouth, which showed its magnanimity in the Panama Canal, its altruism in the Spanish War, need fear no war—sum of all the villainies—for when war begins, then hell openeth.

In New Orleans the other day I heard a distinguished officer of the American Army urge that children should be taught to fight for their rights, for, said he, " if we do not fight for our rights we soon will have no rights to fight for." I ventured then, as I venture now, to say, God forbid that the time should ever come when those of our breed should need to be taught to fight for their rights. But there never was a time when your people or mine has required to be urged to fight for its rights; we always have been, are now and always will be, all too ready to fight for our rights. That is not the true difficulty or the matter of greatest importance. What is important is to determine what our rights are.

No nation, as no individual, ever existed that can be wholly trusted to determine its own rights; impartiality is excluded in the nature of things; and it is the pugnacious spirit, the spirit which is insistent to fight for rights, which is the greatest danger in our international relations. Any nation that is looking for a fight can always be accommodated. It was the curbing of that desire " to fight for our rights," and the careful determination on principle of what these rights were, which made possible the Century of Peace. There always was, is now and always will be a war party—of strong and patriotic men it is composed, no weaklings or traitors are to be found in it, and yet it is just such a party which

must be fought. The people must be convinced that while Might is great, Right is greater, and it is not valour or prowess in arms but Righteousness which exalteth a nation.

Of the future of these two nations I am confident; but should we not pray and work—for *laborare est orare* —that their example may show the better way to all the nations of the earth so that " they shall beat their swords into ploughshares and their spears into reaping hooks; nation shall not lift up sword against nation, neither shall they learn war any more."